

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:            Flowers Baking Co. of Chattanooga, TN                 )  
                    Dist. 1, Map 100G, Group A, Control Map 100G,         ) Cumberland County  
                    Parcel 5.00     )  
                    Industrial Property     )  
                    Tax Year 2007    )

## INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,596,000	\$4,988,500	\$6,584,500	\$2,633,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 4, 2007 in Crossville, Tennessee. In attendance at the hearing were registered agent Will Brown, Mary Cox, Cumberland County Deputy Property Assessor, and J. R. Young, an appraiser with the Division of Property Assessments.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a manufacturing facility situated on a 13.3 acre site located at 1601 N. Main Street in Crossville, Tennessee. Subject facility contains approximately 237,886 square feet of manufacturing, warehousing and office space constructed in stages between 1962 and 1999.

The taxpayer contended that subject property should be valued at \$4,000,000. In support of this position, seven comparable sales were introduced into evidence which Mr. Brown asserted support a value indication of \$17.04 per square foot or \$4,000,000 after rounding. Mr. Brown's analysis also included a calculator cost approach which he maintained supports a value indication of \$4,584,960.

The assessor contended that subject property should remain valued at \$6,584,500. In support of this position, the testimony and written analysis of Mr. Young was offered into evidence. Mr. Young essentially analyzed four comparable sales which he argued support the current appraisal of \$27.68 per square foot.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."



General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$6,584,500 based upon the presumption of correctness attaching to the decision of the Cumberland County Board of Equalization.

Since the taxpayer is appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that Mr. Brown's analysis cannot receive any weight for several reasons. First, there is nothing in the record to indicate Mr. Brown has any expertise in appraisal. The administrative judge finds that although registered agents have the right to represent taxpayers, they do not necessarily qualify as experts. See Tenn. Code Ann. § 67-5-1514. Second, Mr. Brown did not actually appraise subject property. Third, Mr. Brown did not adjust his comparables despite the striking differences between the subject and comparables. For example, the comparables had anywhere from 95,041 to 454,476 square feet, were situated on sites ranging from 10 to 72.09 acres, and sold for anywhere from \$5.79 to \$22.48 per square foot. Respectfully, the administrative judge finds that a reliable conclusion of value cannot be reached from such disparate data without doing more than simply summarizing the characteristics of the properties and selecting a purported value. The administrative judge finds that the procedure utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.



1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001).

Fourth, the administrative judge finds that a calculator cost approach standing by itself does not constitute sufficient evidence to reliably establish the market value of subject property. Given the age of subject property and all the additions, the administrative judge finds that additional proof is necessary to accurately quantify accrued depreciation.

Based upon the foregoing, the administrative judge finds it unnecessary to address the assessor's proof. Indeed, the assessor could have moved for a directed verdict and not even offered any proof.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,596,000	\$4,988,500	\$6,584,500	\$2,633,800

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:



1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of September, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Will Brown  
Ralph Barnwell, Assessor of Property